IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1742 OF 2006

Shri Chandrakant Bapusaheb Kamble ...Petitioner

Vs.

The State of Maharashtra ...Respondent

Shri Kuldeep S. Patil for the Applicant.

Shri A.S.Shitole, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 05, 2006.

P.C.:

1. Rule. The learned A.P.P. waives service for the Respondent. The Petitioner is facing a trial for offences under the Prevention of Corruption Act, 1988. An Application was made by the Petitioner on 03rd August, 2006 before the learned Special Judge praying for recalling P.W.1 for further cross-examination on the ground that some important questions were not asked in the cross-examination. By an order passed on the same day, the learned Special Judge rejected the Application by holding that the Application was vague and in any case full opportunity was given to the Petitioner to cross-examine the P.W.1. The learned Advocate appearing for the Petitioner on instructions stated that the Application was made as it was revealed that the concerned Advocate due to inadvertence did not

cross-examine the P.W.1 on the aspect of demand and acceptance. He submitted that if one more opportunity is given, the Advocate for the Petitioner can cross-examine the witness on the aforesaid aspect. The learned A.P.P. opposed the Petition by pointing out that there was no ground for recall of the witness.

2. I have considered the submissions. The power of the court under section 311 of the Code of Criminal Procedure, 1973 is vide and can be exercised at any stage of proceedings. The learned Advocate appearing for the Petitioner has stated that due to inadvertence on the part of the Advocate for the Petitioner elaborate cross-examination was not made on the aspect of demand and acceptance. Though it is not specifically stated so in the Application filed by the Petitioner, it is averred that some important questions remained to be asked in the cross-examination.

3. Considering the facts and circumstances of the case, the Petitioner deserves one more opportunity to cross-examine the P.W.1.

4. Hence, I pass the following order:

(i) The impugned order dated 03rd August, 2006 is quashed and set aside.

(ii) The learned Trial Judge will recall P.W.1 Shri Manohar Vilas Chopde for further cross-examination by the Advocate for the Petitioner on limited aspect indicated in this order.

(iii) Rule is partly made absolute in above terms.

(iv) Writ to be sent forthwith.

JUDGE